

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MARK VELICER; VELICER ICE, INC.;  
VELICER ICE MARINERS, LLC; and  
VELICER ICE KENT, LLC,

**Plaintiffs,**

VS.

FALCONHEAD CAPITAL LLC,

Defendant.

Case No. 2:19-CV-01505-JLR

**STIPULATION MOTION TO EXTEND  
RESPONSE DEADLINE AND TO AMEND  
SCHEDULING ORDER**

**NOTED FOR CONSIDERATION:  
APRIL 9, 2020**

Plaintiffs Mark Velicer; Velicer Ice, Inc.; Velicer Ice Mariners, LLC; and Velicer Ice Kent, LLC (“Plaintiffs”) and Defendant Falconhead Capital LLC (“Falconhead”) respectfully submit this stipulated motion requesting that the Court issue an order (1) extending Falconhead’s deadline to answer or otherwise respond to the First Amended Complaint (“response deadline”) to April 28, 2020; and (2) extending all deadlines in the November 18, 2019 Scheduling Order, by ninety (90) days to allow for adequate time to complete discovery and permit the efficient handling of this litigation.

The parties agree that an extension of the scheduling deadlines and the response deadline is appropriate for the following reasons.

## I. PROCEDURAL HISTORY

Plaintiffs initiated this action by filing a complaint in the King County Superior Court in

**STIPULATION MOTION TO EXTEND RESPONSE  
DEADLINE AND TO AMEND SCHEDULING ORDER - 1**

578080-0001/4818-4359-9801.1

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1 King County, Washington, on August 15, 2019. Thereafter, on September 19, 2019, Falconhead  
 2 removed this action to federal court.

3 On October 28, 2019, Falconhead filed a Motion to Dismiss the Complaint. On March  
 4 11, 2020, the Court granted Falconhead's motion to dismiss, but gave Plaintiffs leave to amend.  
 5 On March 31, 2020, Plaintiffs filed their First Amended Complaint. The current deadline for  
 6 Falconhead to file an answer or responsive pleading is April 14, 2020. The discovery period is  
 7 currently set to expire on November 2, 2020 and the deadline for dispositive motions is  
 8 December 1, 2020.

9 **II. ARGUMENT**

10 **Responsive Pleading Deadline:** Falconhead seeks an extension of the responsive pleading  
 11 deadline to avoid interference with the Easter holiday. In addition, the First Amended Complaint  
 12 contains a variety of new allegations. Falconhead needs additional time to investigate these  
 13 allegations and prepare a motion to dismiss the First Amended Complaint. Plaintiffs do not  
 14 oppose this request.

15 **Scheduling Order:** A ninety (90) day extension of the scheduling order deadlines would  
 16 be appropriate under the circumstances and would serve the interest of efficiency and judicial  
 17 economy.

18 First, the parties agree that the extended cases schedule would be appropriate to allow the  
 19 parties to conduct complete discovery.

20 Second, the parties agree that their ability to efficiently litigate this action has been  
 21 hampered by the COVID-19 pandemic and the related stay-at-home orders. As a result of these  
 22 orders, the parties' access to documents and services necessary for the litigation of this action has  
 23 been substantially limited. The pandemic will likely impact the Court's ability to address any  
 24 discovery disputes that may arise. It also impacts the parties' ability to engage in potential third-  
 25 party discovery or to travel to conduct depositions in person, which the parties wish to do if  
 26 feasible. Extending the scheduling order by ninety (90) days would allow the party to

1 appropriately address appropriately respond to these and other possible issues.

2 Federal Rules of Civil Procedure 6 and 16 allow the Court to extend deadlines which  
 3 have not yet passed for “good cause.” The district court is “given broad discretion in  
 4 supervising the pretrial phase of litigation.” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d  
 5 604, 607 (9th Cir.1992). “[A]n application for the enlargement of time under Rule 6(b)(1)  
 6 normally will be granted in the absence of bad faith on the part of the party seeking relief or  
 7 prejudice to the adverse party.” *Federal Practice & Procedure* § 1165.

8 Good cause exists to grant the requested extension for the reasons set forth above. There  
 9 is no prejudice to the parties because the extensions proposed are by consent. The extension also  
 10 will advance the interest of judicial economy. The pandemic has caused this District to continue  
 11 all previously scheduled trials for some period of months. Extending the deadline here will  
 12 ensure that there is adequate space on the calendar to reschedule these delayed trials and  
 13 otherwise balance the Court’s workload in the coming months.

14 Finally, the parties make this request in good faith, motivated by a desire to engage in  
 15 efficient litigation, avoid unnecessary burden and expense, and serve the interest of judicial  
 16 economy. Thus, the motion should be granted.

17 **WHEREFORE**, the parties respectfully requests that the Court (1) extend the response  
 18 deadline to April 28, 2020; and (2) extend all deadlines and dates in the November 18, 2019  
 19 Order, including the discovery deadline, by ninety (90) days as set forth in the attached proposed  
 20 order.

21 **STIPULATED AND AGREED to this 6<sup>th</sup>  
 22 day of April, 2020 by:**

23 s/Daniel J. Oates

24 Daniel J. Oates, WSBA No. 39334  
 MILLER NASH GRAHAM & DUNN LLP  
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21 **STIPULATED AND AGREED to this 6<sup>th</sup>  
 22 day of April, 2020 by:**

23 s/Caroline B. Fichter

24 Caroline B. Fichter, WSBA No. 42554  
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1 Email: <a href="mailto:dan.oates@millernash.com">dan.oates@millernash.com</a> 2 Attorneys for Defendant Falconhead Capital LLC	3 Email: <a href="mailto:fichter@myfranchiselawyer.com">fichter@myfranchiselawyer.com</a> 4 Attorneys for Plaintiffs
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STIPULATION MOTION TO EXTEND RESPONSE  
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